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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,395	10/01/2003	Sonia E. Letant	IL-11138	8871
78980	7590	05/06/2009		
I.L.NL/Zilka-Kotab John H. Lee, Assistant Laboratory Counsel Lawrence Livermore National Laboratory L-703, P.O. Box 808 Livermore, CA 94551			EXAMINER CROW, ROBERT THOMAS	
			ART UNIT	PAPER NUMBER
			1634	
			MAIL DATE	DELIVERY MODE
			05/06/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* SONIA E. LETANT, ANTHONY W. VAN BUUREN,  
LOUIS J. TERMINELLO, MICHAEL P. THELEN,  
LOUISA J. HOPE-WEEKS AND BRADLEY R. HART

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Application No. 10/677,395  
Technology Center 1600

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Mailed: May 6, 2009

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Before LAWRENCE J. BANKS *Paralegal Specialist*.  
BANKS, *Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on April 30, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

ACKNOWLEDGMENT OF REPLY BRIEF

On April 29, 2009, the examiner mailed a communication acknowledging receipt of Appellants' Reply Brief, dated February 19, 2009. A review of the Response to Reply Brief reveals that the examiner did not provide proper acknowledgment. The comments made by the examiner would constitute being a Supplemental Examiner's Answer.

The Examiner's response to Reply Brief as set forth in MPEP § 1208, which

states:

(1)After receipt of a reply brief in compliance with § 41.41, the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

(2)A supplemental examiner's answer responding to a reply brief may not include a new ground of rejection.

(b)If a supplemental examiner's answer is furnished by the examiner, appellant may file another reply brief under § 41.41 to any supplemental examiner's answer within two months from the date of the supplemental examiner's answer.

A review of the Response to Reply Brief reveals that the examiner did not provide proper approval.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) vacate the examiner Acknowledgment to the Reply Brief mailed February 19, 2009;
- 2) proper acknowledgment of the Reply Brief is required and/or appropriate consideration of the Reply Brief dated February 19, 2009;
- 3) acquiring approval for any Supplemental Examiner's Answer in response to the Reply Brief mailed February 19, 2009, if appropriate; and
- 4) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

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